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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/734,043
Filing Date: December 12, 2000
Appellant(s): MENERINK ET AL.

Vincent M. DeLuca (32,408)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/18/2005.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Grounds of Rejection To Be Reviewed on Appeal*

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,529,910	FLESKES	3-2003
2001/0033564	HICKMAN	10-2001
5,983,245	NEWMAN	11-1999
6,597,377	MACPHAIL	7-2003
6,785,864	TE	8-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3, 4, 6- 8, and 10-12, are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Fleskes, U.S. Patent 6,529,910.

In considering claim 1, Fleskes discloses a system for allowing a user to customize an Internet web site having predetermined features, the system comprising: a server that is connected to the Internet and that controls the web site, (col. 6, lines 47-55, also see Fig. 1); a web page forming component 26, for forming a personal web page incorporating one or more predetermined features in response to an input provided by the user via the Internet, (col. 3, lines 8-17, also see Fig. 1); a personal web page comprising a private component accessible only by the user and a public component accessible to anyone, wherein the user's input determines which of the

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features appear in the private component and which of the features appears in the public component, (col. 13, lines 16-21).

In considering claim 3, the system of Fleskes further comprises a single action component, wherein the user may add one or more web site features to the personal web page with a single action, (col. 10, lines 13-16).

In considering claim 4, the system of Fleskes further comprises an annotation component that allows the user to create and store a comment related to one of the features in the personal web page, such that the comment may be later accessed, (col. 10, lines 20-23).

In considering claim 6, the web page-forming component disclosed in the system of Fleskes further comprises a construction component to guide the user through the formation of the personal site, (col. 10, lines 5-7).

In considering claim 7, the system of Fleskes further comprises a tracking component that changes the personal web page to reflect changes in the web site, (col. 2, lines 54-60, and col. 3, lines 8-17).

In considering claim 8, Fleskes discloses a method for allowing a user to customize an Internet web site having particular features, the method comprising: connecting to a server via the Internet to access the web site, (col. 6, lines 47-55, also see Fig. 1); providing an input to the web site via the Internet, wherein said input initiates a web page forming component 26, for forming a personal web page incorporating one or more predetermined features in accordance with the input (col. 3, lines 8-17, also see Fig. 1); a personal web page comprising a private component

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accessible only by the user and a public component accessible to anyone, wherein the input determines which of the features appear in the private component and which of the features appears in the public component, (col. 13, lines 16-21).

In considering claim 10, the method of Fleskes further comprises a single action component, wherein the user may add one or more web site features to the personal web page with a single action, (col. 10, lines 13-16).

In considering claim 11, the method of Fleskes further comprises an annotation component that allows the user to create and store a comment related to one of the features in the personal web page, such that the comment may be later accessed, (col. 10, lines 20-23).

In considering claim 12, the method of Fleskes further comprises the step of automatically updating the personal web page, (col. 10, lines 38-44).

Claims 2, 5, 9, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleskes, in view of Hickman, U.S. Patent publication 2002/0033564.

In considering claim 2, although the system of Fleskes shows substantial features of the claimed invention, it fails to explicitly disclose: providing biographical information on the user to be included in the public component.

Nevertheless, providing biographical information on a user to be included in a web page that may be viewed by the public would have been well known in the art at the time the invention was made. This concept is demonstrated in Hickman. The system of Hickman discloses a telephone user that can create web pages comprising:

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providing biographical information on the user in a web page that may be viewed by other individual users, (page 6, paragraph 68).

Thus, it would have been apparent to a person of ordinary skill in the art, at the time of the present invention, to modify the teachings of Fleskes with Hickman to have the user provide biographical information to be included in the public component. This would have allowed the public to verify that the information displayed on the web site is coming from a reliable source, Hickman, page 6, paragraph 68, Fleskes, col. 12, lines 46-54. Therefore, the claimed invention (claim 2) would have been an obvious modification of the methods disclosed by Fleskes in view of Hickman.

In considering claim 5, although the system of Fleskes shows substantial features of the claimed invention, it fails to explicitly disclose: allowing a third party to access the public component from the web site in a single action.

Nevertheless, allowing a third party to access a public component from a web site in a single action would have been well known in the art at the time the invention was made. This concept is demonstrated in Hickman. The system of Hickman discloses a telephone user that can access a web server 28 comprising: allowing an individual to access a public component on the web server by means of a hyperlink included on the home page, (page 6, paragraph 68).

Thus, it would have been apparent to a person of ordinary skill in the art, at the time of the present invention, to modify the teachings of Fleskes, col. 20, lines 24-29, with Hickman to have a third party access the public component from the web site in a single action, or by means of a hyperlink. This would have provided an efficient means

for the public to access the public component of the web page. Therefore, the claimed invention (claim 5) would have been an obvious modification of the methods disclosed by Fleskes in view of Hickman.

In considering claim 9, although the method of Fleskes shows substantial features of the claimed invention, it fails to explicitly disclose: providing biographical information on the user to be included in the public component.

Nevertheless, providing biographical information on a user to be included in a web page that may be viewed by the public would have been well known in the art at the time the invention was made. This concept is demonstrated in Hickman. The system of Hickman discloses a telephone user that can create web pages comprising: providing biographical information on the user in a web page that may be viewed by other individual users, (page 6, paragraph 68).

Thus, it would have been apparent to a person of ordinary skill in the art, at the time of the present invention, to modify the teachings of Fleskes with Hickman to have the user provide biographical information to be included in the public component. This would have allowed the public to verify that the information displayed on the web site is coming from a reliable source, Hickman, page 6, paragraph 68, Fleskes, col. 12, lines 46-54. Therefore, the claimed invention (claim 9) would have been an obvious modification of the methods disclosed by Fleskes in view of Hickman.

Examiner takes Official Notice (see MPEP § 2144.03) that "linking back to a web site" in a computer networking environment was well known in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in

this action according to MPEP § 2144.03, namely, "if applicant traverses such an assertion, the examiner should cite a reference in support of his or her position". However, MPEP § 2144.03 further states "See also *In re Boon*, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, *In re Boon*, 169 USPQ 231, 234 states "as we held in *Ahlert*, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

Claims 13-16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleskes.

In considering claims 13-16, although the method of Fleskes shows substantial features of the claimed invention, it fails to explicitly disclose linking back to the web site in the features of the public component.

Nevertheless, linking back to a web site was well known in the art at the time of the present invention. This concept was often used in web sites by users who requested certain information by clicking on a link in the web site and being relocated from one portion of the web site to another portion in the web site.

Thus, it would have been apparent to a person of ordinary skill in the art, at the time of the present invention, to modify the teachings of Fleskes (col. 20, lines 24-29), to show the features that appear in the public component linking back to the web site. This would have allowed users viewing the public component to utilize the features in the public component to link back to the web site in order to view certain areas of the web site that the user may have been interested in, Fleskes, col. 6, lines 51-55.

(11) Response to Argument

With regards to claims 1 and 8, appellants argue on page 6, second paragraph of the appeal brief, that Fleskes fails to disclose, teach or suggest, "a web page-forming component for forming the personal web page incorporating one or more of the features of the web site in response to an input provided by the user via the Internet." Appellants further argue on page 8, first paragraph, of the appeal brief that Fleskes contains no hint or even a remote suggestion of the claimed "web page-forming component".

The examiner submits that the term "feature" could be interpreted broadly by one of ordinary skill in the art at the time of the present invention. Appellants failure to significantly narrow the scope/definition of the claim language implies that the appellants intend broad interpretation be given to the claims. Accordingly, the examiner has interpreted the models and predetermined templates/designs taught by Fleskes as "features" in the claimed invention. In this regard, it is clear that Fleskes discloses, teaches and suggests, "a web page-forming component for forming the personal web page incorporating one or more of the features of the web site in response to an input provided by the user via the Internet", (col. 3, lines 8-17).

In regards to appellants arguments that Fleskes contains no hint or even a remote suggestion of the claimed "web page-forming component", the examiner respectfully disagrees. One of ordinary skill in the art at the time of the present invention would interpret a "web page-forming component" as any component that creates web pages. Accordingly, the examiner has interpreted the application (26) taught by Fleskes, to be the "web page-forming component", since the application is a component of system (10), (Fig. 1), and the application creates web pages, (col. 6, lines 47-51).

With regards to claims 3 and 10, appellants argue on page 8, second paragraph of the appeal brief, that Fleskes fails to disclose, teach or suggest, "a single action construction component, wherein the user may add one or more of the web site features to the personal web page with a single action." Appellants further note on page 8, third paragraph of the appeal brief, "The Examiner avers that this feature is disclosed in column 10, lines 13-16. However, the text relied upon by the Examiner merely describes the process of viewing an item of a web page (e.g., a user clicks on a view button 74 to view an image of the web page). A user cannot add or incorporate one or more predetermined features to or into a personal web page with a single action in the system o Fleskes. To be sure, after a user requests a login page, enters login information and is verified as an authorized user, he/she 1) selects an organization's web site, 2) enters data about an organization into the web site, 3) elects to generate new web pages, 4) is verified as an authorized user to alter the web pages, etc. Surely, the at least four steps are not a single action."

The examiner submits that although the appellants single out an example in the teachings of Fleskes where a user clicks on a view button to view an image of a web page, in the same passage Fleskes also teaches: "if the master page 60 is editable, then Create 75, Modify 78, and Delete 80 buttons are also available", (col. 10, lines 13-16). This clearly suggests that if a master page is editable, then "single action construction components, wherein a user may add one or more features of a web site to a personal page with a single action", are also available, (col. 10, line 15-16). Furthermore, there is no indication in the claims that indicates a users state. Thus, there is no indication in the claims that clearly indicate whether or not there are steps performed before a user adds one or more web site features to the personal web page with a single action. Therefore, in the teachings of Fleskes, the steps that a user takes before a user adds one or more of the web site features to the personal web page with a single action is insignificant with regards to the claimed invention.

With regards to claims 4 and 11, appellants argue on page 9, first paragraph of the appeal brief, that Fleskes fails to disclose, teach or suggest, "an annotation component that allows the user to create and store a comment related to one of the features in the personal web page, such that the comment may be later accessed." Appellants further note on page 9, second paragraph, of the appeal brief, "Although Fleskes describes, optional components such as custom page or image, or a list of comments, and the like, there is no disclosure that the optional components are related to one of the predetermined features in the personal web page." Examiner respectfully disagrees.

As stated previously, the term "feature" could be interpreted broadly by one of ordinary skill in the art at the time of the present invention. Accordingly, the examiner has interpreted the models and predetermined templates/designs (in this case "items" col. 9, lines 43-47) taught by Fleskes as "features" in the claimed invention. Therefore, the teachings of Fleskes clearly show the optional components being related to one of the predetermined features in the personal web page, (col. 10, lines 20-23), and therefore, Fleskes clearly discloses, teaches and suggests, "an annotation component that allows the user to create and store a comment related to one of the features in the personal web page, such that the comment may be later accessed", (col. 10, lines 20-23).

With regards to claims 2, 5, and 9, appellants argue on page 10, second paragraph, of the appeal brief, that Hickman fails to teach or suggest appellants', "web page-forming component for forming the personal web page incorporating one or more of the features of the web site in response to an input provided by the user via the Internet." Examiner asserts that Hickman was not cited for teaching or suggesting appellants', "web page-forming component for forming the personal web page incorporating one or more of the features of the web site in response to an input provided by the user via the Internet." Examiner asserts that Fleskes was cited for teaching or suggesting appellants', "web page-forming component for forming the personal web page incorporating one or more of the features of the web site in response to an input provided by the user via the Internet." Fleskes teaches and suggests appellants', "web page-forming component for forming the personal web page incorporating one or more of the features of the web site in response to an input provided by the user via the Internet" for reasons previously mentioned.

With regards to claims 2, 5, and 9, appellants further argue on page 12, third paragraph, of the appeal brief, that there is no suggestion to combine the teachings of Fleskes with Hickman, and that the Examiner uses hindsight reasoning to do so. Examiner submits that appellants failed to address these issues in responding to previous actions.

Nevertheless, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction

based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it was well known in the art at the time of the present invention to provide biographical information on a user in a web page that may be viewed by the public. Hickman demonstrates this, and shows biological information on a user in a web page that could be viewed by the public for the purpose of explaining to the public the biography of an individual associated with a business, (page 6, paragraph 68). Allowing a third party to access a public component from a web site in a single action was also well known in the art at the time the invention was made. Hickman also demonstrates this, and shows a third party accessing a public component from a web site in a single action by means of a hyperlink. Doing this allows a user instant access to a requested web page, (page 6, paragraph 68). Thus, not only does Hickman provide motivation to modify the teachings of Fleskes, knowledge

generally available to one of ordinary skill in the art would have made it obvious to modify the teachings of Fleskes with Hickman to produce the claimed invention.

With regards to claims 13-16, appellants argue on page 14, first paragraph, of the appeal brief, that Fleskes fails to disclose, "the predetermined features of the Internet web site that are incorporated into a personal web page, must link back to that Internet web site". Appellants further argue on page 14, second paragraph, of the appeal brief, that there is no suggestion to modify the teachings of Fleskes, and that the Examiner uses hindsight reasoning. Examiner submits that appellants failed to address these issues in responding to previous actions. Nevertheless, Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the present invention to modify the teachings of Fleskes to show the predetermined features of the Internet web site that are incorporated into a personal web page, linking back to that of the Internet web site. Newly cited references, (Newman et al., U.S. Patent 5,983,245, col. 1, line 60 through col. 2, line 8; MacPhail, U.S. Patent 6,597,377, col.2, lines 18-37; and Te et al., U.S. Patent 6,785,864, col. 5, lines 4-7) all show that it was well known in the art at the time of the present invention for a web page to include features of a web site that link back to the web site. Furthermore, in addition to being well known in the art at the time of the present invention, it would have been obvious to one of ordinary skill in the art that the teachings of Fleskes provide a means for having features that link back to an original web site that contained the features, (col. 11, lines 15-22). Although Fleskes discloses hyper-linking to other web sites in the passage, the same functionality could be used to link back to an original web site that incorporates the hyperlink,

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(Newman et al., U.S. Patent 5,983,245, col. 1, line 60 through col. 2, line 8; MacPhail, U.S. Patent 6,597,377, col.2, lines 18-37; and Te et al., U.S. Patent 6,785,864, col. 5, lines 4-7).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Hassan Phillips
April 18, 2005

Conferees
Patrice Winder
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